

86-00172

MEMO FOR FILE:

Opinion #86-00172 has been corrected.

Original opinion omitted the word: Assistant.

Opinion concerns Assistant District Attorney
not full time DA.

OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK
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STATE OF ALABAMA

MAR 4 1986

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Honorable David Barber
District Attorney
Tenth Judicial Circuit
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District Attorneys
City Councils
Offices and Officer
Conflict of Interest
Employers, Employees, Employment

There are no prohibitions which would prevent a full-time assistant district attorney of the Tenth Judicial Circuit from holding the position of an elected city councilman in a Jefferson County Municipality so long as such assistant district attorney does not allow his municipal office to infringe upon his duties as an assistant district attorney.

Dear Mr. Barber:

Your request for an opinion of this office asks whether there are any prohibitions in the State Code which would prevent an Assistant District Attorney of the Tenth Judicial Circuit from holding the position of an elected city councilman in a Jefferson County Municipality.

Honorable David Barber
District Attorney
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Section 12-17-184(11), Code of Alabama, 1975 provides as follows:


"All district attorneys and all full-time assistant district attorneys shall devote their entire time to the discharge of the duties of their respective offices, and each and every one of such officers are prohibited from practicing law, directly or indirectly, in any court of this state or of the United States, or in any other manner or form whatsoever, except in the discharge of the official duties of their offices."

While this statute has been in effect this office has held: (1) That an assistant district attorney may serve on a Civil Service Board but must devote the entire normal working hours to his duties as an assistant district attorney and if the Civil Service Board meets during normal working hours, the assistant district attorney must take annual leave. Opinion of the Attorney General under date of May 26, 1981, addressed to Honorable Charles Freeman, District Attorney, Sixth Judicial Circuit of Alabama, Tuscaloosa, Alabama. Also that (2) one may serve as assistant district attorney and municipal judge if and only if he has no contact as assistant district attorney with defendants in the municipal court where he sat as judge. Opinion of the Attorney General under date of December 14, 1979, to Honorable Fitzhugh A. Burttram, District Attorney, Thirtieth Judicial Circuit, Pell City, Alabama. See also 12 Words and Phrases, Perm. Ed. P. 547, "Devoting His Entire Time."

In my opinion, therefore, there are no prohibitions which would prevent a full-time assistant district attorney of the Tenth Judicial Circuit from holding the position of an elected city councilman in a Jefferson County Municipality so long as such assistant district attorney does not allow his municipal office to infringe upon his duties as assistant district attorney.

Very truly yours,

CHARLES A. GRADDICK
Attorney General
By:


JAMES R. SOLOMON, JR.
Deputy Attorney General

JRSjr:dn